

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

AKBAR SALAAM,

Petitioner,

DECISION AND ORDER

06-CV-6077L

v.

MICHAEL GIAMBRUNO, Superintendent,
Wyoming Correctional Facility,

Respondent.

This Court referred the petition for a writ of habeas corpus filed by Akbar Salaam (“Salaam”), pursuant to 28 U.S.C. § 2254, to United States Magistrate Judge Victor E. Bianchini, pursuant to 28 U.S.C. § 636(b). Salaam was convicted on his plea of guilty to a charge of kidnaping in the second degree. He was sentenced principally to 10 years imprisonment. Magistrate Judge Bianchini reviewed the matter and on March 31, 2008, filed a Report and Recommendation (Dkt. #17) recommending that the petition for habeas corpus relief be dismissed.

I have reviewed the Magistrate Judge’s careful and thorough Report and Recommendation. I agree with it, adopt it without modification, and dismiss the petition.

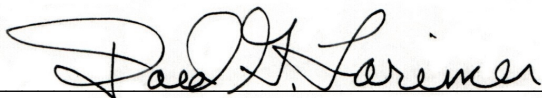
Magistrate Judge Bianchini discussed the procedural history and dealt with the matters raised in the petition. I agree with his analysis on each issue. For example, I agree that the alleged misstatements of Detective Borrelli in the grand jury does not constitute any constitutional violation. Furthermore, I agree with the Magistrate Judge that Salaam's guilty plea constitutes a waiver of matters occurring before the grand jury. I also agree that there is no basis for habeas corpus relief relative to his waiver before the trial court of his right to appeal. Salaam has not established any error of a federal constitutional magnitude. Finally, Salaam's quarrel with the prosecutor's proffer at the guilty plea proceeding does not provide any basis for habeas relief. Based on the proffer and the acts alleged to have occurred relative to the victim, no constitutional claim has been raised here.

CONCLUSION

I accept and adopt the Report and Recommendation of United States Magistrate Judge Victor E. Bianchini in its entirety.

The petition of Akbar Salaam is dismissed. I decline to issue a certificate of appealability because Salaam has failed to make a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c).

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
June 4, 2008.